

## **REMARKS**

### **Response to Double Patenting**

Claims 1 and 85 were rejected by the Examiner on the grounds of nonstatutory double patenting over claim 13 of U.S. Patent No. 7,189,206 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

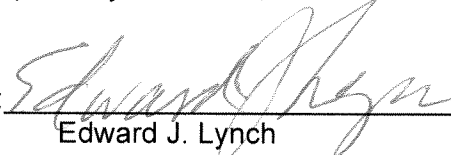
Applicants disagree with the Examiner that claims 1 and 85 would extend the "right to exclude", primarily because these claims before amending as above called for a flared distal portion which the aforesaid '206 does not address. Importantly applicants have further clarified these claims calling for the distal portion to flare outwardly in a distal direction which positions these claims further from the '206 patent.

Applicants believe that there is no double patenting and no need for a terminal disclaimer in the present case, particularly in view of the clarified claims. The pending claims are directed to an embodiment (shown in Figs. 19-22 of the present application) that is not disclosed or suggested in the '206 patent and therefore they are patentable over the issued patent based upon the claimed features.

### **Conclusions**

Applicants believe that the pending claims are directed to patentable subject matter. Reconsideration and an early allowance are earnestly solicited.

Respectfully submitted,

By: 

Edward J. Lynch  
Reg. No. 24,422  
Attorney for Applicants

EDWARD J. LYNCH  
Patent Attorney  
Four Embarcadero Center  
Suite 1700  
San Francisco, CA 94111  
**Tel: (415) 391-9300**  
Fax: (415) 391-9304